

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EVANSTON INSURANCE
COMPANY,

No. CIV S-02-1505 DFL PAN

Plaintiff,

LETTER OF REQUEST:

vs.

OEA, INC. and DOES 1 through 20,
inclusive,

REQUEST FOR INTERNATIONAL
ASSISTANCE PURSUANT TO THE
HAGUE CONVENTION OF 18 MARCH 1970
ON THE TAKING OF EVIDENCE IN CIVIL
OR COMMERCIAL MATTERS

Defendants.

AND RELATED CROSS-CLAIMS.

THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA, 501 I Street, Sacramento, California 95814:

TO THE HIGH COURT OF JUSTICE, QUEEN'S BENCH DIVISION, STRAND,
LONDON, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND.

In conformity with article 3 of the Convention, the undersigned application has the honor
to submit the following request:

John F. Moulds, U.S. Magistrate Judge, U.S. District Court for the Eastern District of
California, 501 I Street, Suite 16-400, Sacramento, California 95814, requesting judicial
authority.

1 To the Senior Master of the Supreme Court, Queen's Bench Division, Royal Courts of
2 Justice, Strand London WC2A 2LL, England, U.K.

3 Names and addresses of the parties and their representatives:

4 John L. Viola
Thelen Reid & Priest LLP
5 333 South Hope Street, Ste. 2900
Los Angeles, CA 90071-3048
6 Counsel for OEA
213-576-8000 x 8076
7 fax 213-576-8080

Andrew Timothy Houghton
Sedgwick Detert Moran & Arnold LLP
125 Broad Street, 39th Floor
New York, NY 10004-2400
Counsel for the Underwriters
212-490-9100 x 6810
fax 212-370-4453

8 WHEREAS the above civil action is pending in our United States District Court for the
9 Eastern District of California, in which OEA, Inc. ("OEA") is Defendant and Counterclaimant
10 and Certain Underwriters at Lloyd's of London, et al. ("Underwriters") is a Counterdefendant, it
11 has been suggested to this Court that justice cannot be completely done between the parties
12 without OEA having the deposition testimony of Dudley Phillips, an individual who resides
13 within your jurisdiction, such evidence being necessary at the trial of the above action.

14 This Court requests the assistance described herein as necessary in the interest of justice.
15 The assistance requested is that the appropriate judicial authority, through your usual and proper
16 process, compel the appearance of Dudley Phillips to give evidence related to the
17 above-captioned matter.

18 OEA was sued in California state court by Karen Wise and Patricia Shugart, two
19 employees of OEA Aerospace, Inc., a wholly-owned subsidiary of OEA, for injuries sustained in
20 two unrelated accidents, while in the course and scope of their employment. Both were badly
21 injured. Wise lost her thumb and portions of the fingers of her right hand, among other injuries.
22 Shugart lost the sight in one eye, among other injuries. OEA tendered the claim to the
23 Underwriters, as well as other insurance companies that had issued policies to OEA, for defense
24 and indemnity.

25 The Underwriters denied the claim and OEA filed claims against Underwriters for breach
26 of contract and breach of the covenant of good faith and fair dealing.

1 The Underwriters, has identified Dudley Phillips as an individual who was privy to events
2 that related directly to the Underwriters' denial of OEA's claim and who made the decision by the
3 Underwriters to deny OEA's claim. OEA seeks to elicit such information through questioning at
4 the deposition of Mr. Phillips. Mr. Phillips resides at Flat 68, Thomas Moore House, London
5 EC2Y 8BT (Telephone Number 0044 207 588 0418).

6 In the interest of justice, it is proposed that Dudley Phillips be asked about the following
7 issues and matters:

- 8 1. The Underwriters' investigation of OEA's claim;
- 9 2. The Underwriters' original decision to deny OEA's claim; and
- 10 3. The Underwriters' processing of OEA's claim, including any further evaluation
11 and/or investigation of the claim following its original denial of the claim.

12 WE THEREFORE REQUEST that in the interest of justice, you issue an order by your
13 power and the usual process summoning Dudley Phillips to appear, before you or some
14 competent officer by you for that purpose authorized, at an appropriate time and place, to give
15 testimony under oath or affirmation by question and answers upon oral deposition, to be
16 conducted as an American-style deposition with American counsel present and participating and
17 conducting the examination. Such deposition to continue until completion on the topics as
18 respectfully requested and described above.

19 WE FURTHER REQUEST the you cause the examination to be reduced to writing, and
20 that such books, papers, or other articles that said witness may identify at the oral examination be
21 marked as exhibits and attested. The Court is requested to authorize the examination to be
22 videotaped at OEA's application. We request that you cause the materials to be returned to us
23 under cover duly sealed and addressed to the Clerk of the United States District Court for the
24 Eastern District of California, United States of America. We shall be ready and willing to do the

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1 same for you in a similar case when required. We shall reimburse you for any costs incurred in
2 executing the instant Letter of Request, aka Letter Rogatory.

3 DATE OF REQUEST: June 13, 2006.

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6 UNITED STATES MAGISTRATE JUDGE
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8 Jack L. Wagner, CLERK
9 United States District Court
10 Eastern District of California
11 By: _____
12 Deputy Clerk
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